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Sixty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1617th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

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ORGANIZATIONAL AND OTHER MATTERS (continued)

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1617/Add.1.

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GE.97-18693 (E)

The meeting was called to order at 3.20 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

List of issues to be taken up in connection with the consideration of the fourth periodic report of Sudan (CCPR/C/75/Add.2) (continued)
(CCPR/C/61/Q/SUD/2)

1. The CHAIRPERSON, recalling that Lord Colville, as Chairman/Rapporteur of the pre-sessional working group, had introduced the list of issues at the previous meeting, invited the Committee to begin its consideration of that list.

2. Mr. POCAR pointed out that the title was incorrect: it should read "second periodic report", not "fourth periodic report", of Sudan.

3. The title, as amended, was adopted.

Part I

Question 1

4. Mr. KLEIN observed that the issue addressed, namely the continuing impact of the armed conflicts on the exercise of human rights in Sudan, was extremely broad. It might be preferable to focus instead on the impact of the state of emergency on the enjoyment of human rights. The references to articles 6, 7, 9, 10, 14 and 27 should be deleted, as those articles dealt with specific human rights violations not necessarily linked to the armed conflicts; only the citation of article 4 should be retained.

5. It was so decided.

6. Question 1, as amended, was adopted.

Question 2

7. Question 2 was adopted.

Questions 3 and 4

8. The CHAIRPERSON suggested that the order of the questions should be reversed.

9. It was so decided.

10. In response to a comment by the CHAIRPERSON, Lord COLVILLE suggested that the title of question 3 should be revised to read "Training of the armed forces (articles 6 and 7)".

11. It was so decided.

12. Questions 3 and 4, as amended, were adopted.

Question 5

13. Question 5 was adopted.

Question 6

14. Mr. BUERGENTHAL proposed that a reference to torture should be included in the title to avoid giving the impression that cruel, inhuman or degrading punishment was not a form of torture.

15. It was so decided.

16. Question 6, as amended, was adopted.

Questions 7 (A) and (B) and 8

17. Mr. SCHEININ said that, in connection with article 7 of the Covenant, the Committee should request information on legislative and other measures taken to eliminate the practice of female genital mutilation, which was widespread in Sudan. In connection with the right to life as guaranteed in article 6, the Committee should request data on maternal mortality, the rate of which was very high in Sudan, and information on measures adopted by the Government to reduce its incidence, particularly those relating to contraception and the prohibition of abortion.

18. Article 8 of the Covenant, dealing with slavery, was cited under question 8, entitled "Situation of children in armed conflicts". Yet slavery afflicted not just children, but also women. It might therefore be appropriate to incorporate a reference to the abduction and slavery of women in question 8.

19. Ms. EVATT endorsed those comments, supported the proposal to include a reference to women in question 8, and suggested that in question 7 (A) mention should be made of female genital mutilation and maternal mortality.

20. Mr. BUERGENTHAL supported the observations made by Mr. Scheinin.

21. Lord COLVILLE, responding to a query from the CHAIRPERSON about exactly how to incorporate Mr. Scheinin's suggestions in the list of issues, said he fully agreed that female genital mutilation and maternal mortality were extremely important issues. The working group had been mindful of the limited time available for consideration of the report of Sudan, however, and had tried to avoid overburdening the list of issues with specific questions which could, in any case, be raised during the discussion. A new question 7 (C) could certainly be added, but he was fearful that there would not be sufficient time to do justice to each issue.

22. The CHAIRPERSON considered that Lord Colville's concerns were valid ones and suggested that question 7 (B), which requested information on the number of women in the political and social life of the country, should be replaced by a question relating to slavery.

23. Mr. YALDEN said the Chairperson's suggestion was acceptable, but it might also be possible to combine question 7 (B) with the first sentence of question 7 (A). A reference to female genital mutilation and maternal mortality could then be inserted in the second sentence of question 7 (A), where mention was made of "traditional attitudes and inequalities in the laws", and that sentence, together with the final sentence in question 7 (A), could form a separate subparagraph. The end result would be, as at present, two subparagraphs, but they would be better organized.

24. The CHAIRPERSON suggested that it might be more appropriate to include the reference to female genital mutilation and maternal mortality in the first sentence of question 7 (A), after the reference to measures taken to eliminate all areas of legal and de facto discrimination against women. She retained her suggestion regarding the replacement of question 7 (B) by a specific question on slavery.

25. Mr. POCAR and Mr. BHAGWATI supported the replacement of question 7 (B) by a question on slavery.

26. Mr. SCHEININ said he could go along with the Chairperson's suggestions regarding questions 7 (A) and (B), as long as articles 6 and 7 of the Covenant were cited in the title, together with articles 3 and 26. A reference to slavery could simply be inserted in question 8 and the title of that question amended to read "Situation of women and children in armed conflicts".

27. Lord COLVILLE said he fully endorsed Mr. Scheinin's proposal and suggested that the final sentence of question 8 should be revised to read "What steps are being taken to prevent abduction, slavery, and forced conscription and labour of women and children?"

28. It was so decided.

29. Questions 7 (A) and (B) and 8, as amended, were adopted.

Question 9

30. Mr. POCAR suggested that the words "of members" should be deleted.

31. It was so decided.

32. Question 9, as amended, was adopted.

Part II

Questions 10 and 11

33. Questions 10 and 11 were adopted.

Question 12

34. Mr. ZAKHIA suggested that, after the word "judiciary" in the title ("Independence, impartiality and training of the judiciary"), the words "and the justice administration system" should be inserted, since human rights violations often occurred even before an individual's case was brought to court.

35. Lord COLVILLE explained that the question was directed at a number of specific points. First, the Sudanese Government had simply dismissed a great many judges and transferred many others, including all the women judges, from the south to the north. Secondly, the appointment of judges was often highly political. Thirdly, for a number of tribunals, including those specified in question 12, the method of selection of judges was entirely unknown, as was the nature of training given to them, if any. Though he entirely agreed with Mr. Zakhia that the Committee needed much more information on the general structure and functioning of the judiciary, question 12 was intended to raise specific points that needed urgent consideration.

36. Mr. ZAKHIA noted that in the past Sudan had been in the vanguard of Arab countries in terms of jurisprudence and judicial practice, but the situation had now degenerated. The list of issues would be transmitted to the Government; it would therefore be preferable to refer to the administration of justice in general. Often human rights were not implemented because of organizational problems in such administration.

37. The CHAIRPERSON suggested the addition of a reference to judicial mechanisms in general at the beginning of the first part of the question. The two subparagraphs, (a) and (b), seemed redundant, and she requested clarification on that point.

38. Lord COLVILLE said subparagraph (b) referred to the military courts, tribunals set up under the National Security Act 1994, the Public Order Courts, and the Military and Security Courts, which were special courts with special regulations and did not form part of the excellent high court system established earlier in the country's history. Subparagraph (a) was intended to address that original high court system and the way in which it had worked.

39. The CHAIRPERSON thanked Lord Colville for his explanation and said that, if she heard no objection, she would take it that the Committee wished to adopt her suggestion for the incorporation in subparagraph (a) of a reference to judicial mechanisms in general.

40. It was so decided.

41. Question 12, as amended, was adopted.

Question 13

42. Mr. ZAKHIA, supported by Mr. POCAR, suggested that freedom of religion should be expressly mentioned between the freedoms of conscience and expression in the text of the question, if not in its title.

43. Lord COLVILLE remarked that the religious rights of persons belonging to minorities was dealt with in question 9.

44. Mr. BHAGWATI said that the question, as worded at present, covered too wide a field and was unlikely to elicit a satisfactory reply.

45. Mr. KLEIN agreed that a more selective approach would be more productive. Were all the rights listed in the question endangered in the same way and to the same extent?

46. Lord COLVILLE said that the problems arising from restrictions imposed on the exercise of all the rights listed in question 13 were very real.

47. Ms. EVATT, noting that the report admitted the existence of certain restrictions on all the rights and freedoms listed in the title of the question, with the possible exception of those under article 25 of the Covenant, suggested that the Committee should ask how those restrictions were considered to be compatible with the Covenant.

48. Mr. BUERGENTHAL agreed with that suggestion, but observed that it might be sufficient to focus on the freedom of expression and the right to form political parties, which surely represented the crux of the matter.

49. Mr. BHAGWATI said that he would be entirely satisfied if the question was reformulated so as to ask the Government of Sudan how the restrictions imposed on the exercise of the freedom of conscience and the right to form political parties were compatible with the Covenant.

50. It was so decided.

51. Question 13, as amended, was adopted.

Question 14

52. Mr. BHAGWATI said that the word "prevalence" in the second line should be replaced by "precedence".

53. Question 14, as amended, was adopted.

Question 15

54. Question 15 was adopted.

55. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the fourth periodic report of Belarus (CCPR/C/84/Add.4 and 7) CCPR/C/61/Q/BEL/2)

56. Lord COLVILLE observed that, although the working group had deliberately refrained from highlighting them, questions 7 and 11 raised key issues affecting all other problems arising in Belarus.

Question 1

57. Mr. BUERGENTHAL inquired whether the importance of the question warranted its being placed at the top of the list of issues. Could it not be moved to the end of part I or the beginning of part II?

58. Lord COLVILLE said that the question, especially its second part, was more important than it looked.

59. Ms. EVATT said that some non-governmental organizations (NGOs) in Belarus had had their premises broken into, while some had been prevented from attending the session. The matter was of considerable importance.

60. Mr. YALDEN considered that, in that case, the dissemination of information aspect could perhaps be played down or omitted altogether.

61. Mr. BUERGENTHAL suggested that the question should be reformulated in the light of the discussion.

62. It was so decided.

63. Question 1 was adopted on that understanding.

Questions 2 to 8

64. Questions 2 to 8 were adopted.

Question 9

65. Mr. SCHEININ, noting that the question was one of the two key issues mentioned by the Chairman of the working group, proposed the addition of the following sentence before the last sentence: "What safeguards have you to protect the freedom of expression of broadcasters and broadcasting professionals?". He understood that some broadcasting stations in Belarus had had their frequencies taken away, and that foreign radio and television journalists had been expelled.

66. The CHAIRPERSON wondered whether the proposed sentence ought not to refer to all mass media rather than only to broadcasting.

67. Lord COLVILLE pointed out that the other media were covered by the first sentence. Particular problems had recently arisen in Belarus in connection with broadcasters and television technicians, especially from Russia.

68. Mr. BHAGWATI considered that a reference to the press would be justified in view of certain government practices outside the legal framework of the Acts referred to in the first sentence. For example, independent newspapers - which had to be printed in Lithuania because printing presses and distribution networks inside Belarus were entirely government-controlled - were often confiscated at the time of importation.

69. Mr. ZAKHIA said that he, too, would be in favour of including a reference to the press as well as to the broadcasting media.

70. It was so decided.

71. Question 9, as amended, was adopted.

Questions 10 to 13

72. Questions 10 to 13 were adopted.

Question 14

73. The CHAIRPERSON said that the reference to article 9 of the Covenant should be deleted from the title of the question.

74. It was so decided.

75. Question 14, as amended, was adopted.

Questions 15 to 17

76. Questions 15 to 17 were adopted.

77. The list of questions as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the initial report of Lithuania (CCPR/C/81/Add.10) (CCPR/C/61/Q/LIT/2)

78. Lord COLVILLE said that, apart from the continuing use of the death penalty, the situation in Lithuania did not give rise to any special problems.

79. The CHAIRPERSON suggested that question 10, which at present appeared at the top of part II, should be moved to become question 1 of part I.

80. It was so decided.

Questions 1 to 4 (old numbering)

81. Questions 1 to 4 were adopted.

Questions 5, 14 and 15

82. The CHAIRPERSON pointed out that article 9 did not refer to a system of detention. Moreover, paragraph 35 of the report merely quoted article 20 of the Lithuanian Constitution concerning the right to liberty and security of person and there was no need to cast doubts on its compatibility with article 9.

83. Ms. EVATT, supported by Lord COLVILLE, said that the query relating to article 9 should really refer to paragraphs 35 to 47 of the report, which revealed many instances of incompatibility with article 9. One of the many

shortcomings of the system of arrest and pre-trial detention was that the prosecutor had the power to issue arrest warrants and take decisions on detention.

84. Mr. SCHEININ suggested that the question should be broadened to refer to paragraphs 102 and 180 concerning other forms of deprivation of liberty.

85. The CHAIRPERSON noted that paragraphs 35 to 47 dealt with judicial detention, paragraph 102 with police powers and administrative detention, and paragraph 180 with juvenile offenders.

86. Ms. EVATT felt that those issues would be more suitably dealt with under question 15 in part II.

87. The CHAIRPERSON suggested that question 15 should be brought forward and combined with question 5 to avoid separating judicial detention and administrative detention and thereby giving the false impression that the former issue was more serious than the latter.

88. Mr. SCHEININ said there seemed to be a general problem with the Lithuanian approach to article 9 and suggested combining question 14 with the same group of queries.

89. Lord COLVILLE suggested the following rewording of question 5, inserting paragraph references to the report where appropriate:

> "Systems of detention (article 9 of the Covenant): Please explain how the systems of arrest, pre-trial detention and administrative detention and the procedure under the Code of Penal Procedure operate in practice and explain how they are compatible with article 9 of the Covenant."

90. It was so decided.

91. Questions 5, 14 and 15, as amended, were adopted.

Question 6

92. Question 6 was adopted.

Question 7

93. Mr. KLEIN pointed out that the Covenant did not provide for a right of asylum. The treatment of asylum-seekers could be considered under article 9 concerning deprivation of liberty, article 13 concerning aliens and article 23 concerning family rights, but a State party could not be questioned about the number of requests for asylum that had been granted or denied since independence.

94. Mr. SCHEININ suggested that, in the context of article 7, information should be requested on the rules governing the granting or refusal of the status of refugee and on forms of protection against cruel, inhuman or

degrading treatment. The last part of the question might be reworded to read: "Please provide information on the rights and treatment of the person and his/her family until a decision thereon is reached."

95. The CHAIRPERSON considered that the Committee was not justified in requesting information on the rules governing the granting or refusal of refugee status or on the remedies available. It must confine its inquiries to the last part of the question, with perhaps a reference to freedom of movement pending a decision.

96. It was so decided.

97. Question 7, as amended, was adopted.

Question 8

98. Question 8 was adopted.

Question 9

99. Mr. BUERGENTHAL said he understood that a serious problem had been created, especially for the Polish minority, by Lithuanian legislation restricting the way in which names could be used by individuals belonging to national minorities. In some cases, the names were distorted beyond recognition. He suggested the following addition to question 9: "Are there legal restrictions in Lithuania on the use of names by individuals belonging to national minorities?"

100. It was so decided.

101. Question 9, as amended, was adopted.

Part II

Question 11

102. Mr. POCAR, referring to the second sentence, said it was inappropriate to inquire about the role and functions of NGOs concerned with the defence of human rights.

103. Mr. YALDEN said he understood that a number of NGOs had been banned under the Law on Non-Governmental Organizations referred to in paragraph 138 of the report. The issue could be taken up in connection with the right to freedom of association.

104. Mr. KLEIN suggested inquiring about the impact of the Law on the activities of NGOs concerned with the defence of human rights.

105. The CHAIRPERSON said she failed to see how that part of question 11 related to the Human Rights Ombudsman.

106. Mr. BHAGWATI suggested a question along the following lines to be inserted after question 19: "Are the restrictions on the formation and activities of NGOs set out in paragraphs 146 et seq. compatible with article 22 of the Covenant?"

107. Mr. POCAR said he would prefer the question to be even more forthright: "In the light of information given in paragraphs 146 et seq. of the report, what has been the practical impact of the Law on Non-Governmental Organizations on the freedom of NGOs to pursue their activities in defence of human rights?"

108. Mr. BHAGWATI suggested as a compromise: "What is the impact of the restrictions on NGOs set out in paragraphs 146 et seq. of the report on the activities of NGOs in defence of human rights".

109. Mr. KLEIN felt it would be preferable to ask: "What is the practical impact of the Law on Non-Governmental Organizations referred to in paragraphs 146 et seq. of the report on the right to association, especially of NGOs concerned with the defence of human rights?"

110. Mr. ZAKHIA suggested that there should be a reference to the "freedom of action" of NGOs.

111. Mr. YALDEN pointed out that all NGOs were affected by the Law, not just those concerned with human rights.

112. The CHAIRPERSON asked whether the following rewording of the second half of question 11 was acceptable as a new question to be inserted after question 19: "What is the practical impact of the Law on Non-Governmental Organizations referred to in paragraphs 146 et seq. of the report on the freedom of action of NGOs?"

113. It was so decided.

114. Question 11, as amended, was adopted.

Question 12

115. Mr. BUERGENTHAL suggested that question 12 should be moved to part I as question 2.

116. It was so decided.

117. Question 12 was adopted.

Question 13

118. Mr. BHAGWATI suggested that the question should be deleted.

119. The CHAIRPERSON, noting that question 13 apparently referred to a major problem in the army, suggested that the question should be put to the delegation orally.

120. It was so decided.

121. Question 13 was deleted.

Questions 16 to 18

122. Questions 16 to 18 were adopted.

Question 19

123. Mr. BHAGWATI suggested that the words "to perform" should be replaced by "for".

124. It was so decided.

125. Question 19, as amended, was adopted.

Question 20

126. Mr. KLEIN suggested that a reference to article 2 of the Covenant should be inserted.

127. It was so decided.

128. Question 20, as amended, was adopted.

129. The list of issues as a whole, as amended, was adopted.

The public part of the meeting rose at 5.15 p.m.